App.). A contrary decision in South Carolina cannot be supported, in view of federal decisions in a field in which the federal law is supreme. *Driggs* v. *Southern Ry. Co.*, 81 S. E. 431. *Cf. Gulf, C. & S. F. Ry. Co.* v. *Hefley*, 158 U. S. 98. It is submitted that in the principal case also recovery should have been denied. Existing tariffs can be changed, under the statute, only by filing new schedules with the Commission. The scheduled rate to Bradford appeared to be $1.85. But the lawful rate to the place of consignment was still $2.25, though the name of the station had been changed, and its old name given to a station enjoying lower rates. The conclusion seems inevitable that the decision in substance compels the railroad to charge the complainant less than the lawful rate, in violation of the statute.

CARRIERS — DUTY TO TRANSPORT AND DELIVER — RIGHT OF CONSIGNOR TO SUE. — Lumber was sold and consigned to the purchaser. Title passed upon shipment, but, owing to the carrier's failure to transport by the stipulated route, the consignee refused to receive the goods. The consignor sues the carrier upon the contract of shipment. By statute all actions must be maintained by the real party in interest. *Held*, that the plaintiff cannot recover. *Warren & O. V. Ry. Co.* v. *Southern Lumber Co.*, 170 S. W. 998 (Ark.).

The weight of authority apparently holds that the consignor, as party to the contract of shipment, may sue thereon without showing any interest in the goods. *Blanchard* v. *Page*, 8 Gray (Mass.) 281; *Finn* v. *Western R. Co.*, 112 Mass. 524; *Carter* v. *Southern Ry. Co.*, 111 Ga. 38, 36 S. E. 308; *Dunlop* v. *Lambert*, 6 Cl. & F. 600. Not being the owner, however, he cannot sue in tort. *Wetzel* v. *Power*, 5 Mont. 214. See *Dawes* v. *Peck*, 8 T. R. 330. The consignee, also, if title has passed, may sue the carrier in contract in his own name upon the theory that the consignor contracted as his agent, or in tort for breach of duty. *Bank of Irvin* v. *American Express Co.*, 127 Ia. 1, 102 N. W. 107; *Dyer* v. *Great Northern Ry. Co.*, 51 Minn. 345, 53 N. W. 714. Some authorities, however, support the instant case in holding that the consignee alone can sue if the legal title is in him. *Union Pacific R. Co.* v. *Metcalf*, 50 Neb. 452, 69 N. W. 961; *Blum* v. *Caddo*, 1 Woods (U. S.) 64. See *Dawes* v. *Peck*, *supra*. But the statutory requirement that actions be brought in the name of the real party in interest is not generally held to preclude suit by the consignor, even though title be in the consignee. *Hooper* v. *Chicago & N. W. Ry. Co.*, 27 Wis. 81; *Southern Express Co.* v. *Craft*, 49 Miss. 480. *Contra*, *Union Pacific R. Co.* v. *Metcalf*, *supra*. It is submitted that the preferable view allows the consignor to recover. In the first place, it obviates the troublesome question of locating title, and thus conduces to simplicity. There is no hardship on the carrier, for recovery by the consignor bars an action by the owner. See *Carter* v. *Southern Ry. Co.*, *supra*. And the consignor is forced to hold the proceeds for the party actually entitled. See *Finn* v. *Western R. Co.*, *supra*. Then, too, since the consignor is primarily liable for freight, the carrier should be subject to a corresponding liability to him on the contract. See *Central R. Co. of N. J.* v. *MacCartney*, 68 N. J. L. 165, 52 Atl. 575; *Portland Flouring Mills Co.* v. *British & F. M. Ins. Co.*, 130 Fed. 860.

CARRIERS — LIMITATION OF LIABILITY — EFFECT OF NOTICE FILED WITH PUBLIC SERVICE COMMISSION. — The plaintiff checked her baggage on an intrastate journey without declaring its value. The defendant carrier had filed a notice with the Public Service Commission limiting its liability for baggage, in accordance with a state statute which provided that every carrier should be liable for the full value of baggage, but that value in excess of one hundred and fifty dollars should be declared, and excess charges paid. N. Y. CONSOL. LAWS, PUBLIC SERVICE LAW, § 38. The plaintiff had no knowledge of this regulation or of a similar limitation printed on the baggage check. *Held*, that the plain-

tiff may recover the full value. *Dazey* v. *New York Central & H. R. R. Co.*, 150 N. Y. Supp. 58 (Sup. Ct.).

The court construes the statute as declaratory of the common law, which holds the carrier to full liability in the absence of an estoppel against the shipper owing to express agreement or valuation. *Rawson* v. *Pennsylvania R. Co.*, 48 N. Y. 212. Filing the regulation with the commission seems properly held not to carry constructive notice of the limitation to the shipper. An opposite conclusion, however, has been reached as to shipments under the Interstate Commerce Act. *Boston & Maine R. Co.* v. *Hooker*, 233 U. S. 97, criticised in 27 HARV. L. REV. 737. It is to be regretted that so desirable a rule as that of the principal case should have been thus restricted in operation.

CONFLICT OF LAWS — OBLIGATIONS *EX DELICTO:* CREATION AND ENFORCEMENT — ACTION BY PERSONAL REPRESENTATIVE FOR TORT COMMITTED UNDER FOREIGN STATUTE WHICH VESTED THE RIGHT IN BENEFICIARIES. — The Pennsylvania death statute gave an action to the widow of the deceased, but if no widow, to his personal representative, the damages to go to the widow and children. In default of such relatives it vested the action in the parents of the deceased. The New York statute created a similar right, but provided that the suit be brought in all cases by the deceased's personal representative. Two servants of the defendant were wrongfully killed in Pennsylvania. Suits were brought in New York by their personal representatives, in the one case for the benefit of the wife and child, in the second for that of the parents. *Held*, that recovery be allowed in the first case, and refused in the second. *Teti* v. *Consolidated Coal Co.*, 217 Fed. 443 (N. D., N. Y.).

When a statutory tort is committed in a foreign jurisdiction, the statute of that sovereign creates the right of action. *Usher* v. *West Jersey R. Co.*, 126 Pa. St. 206, 17 Atl. 597; *Higgins* v. *Central N. E. & W. R. Co.*, 155 Mass. 176, 29 N. E. 534. It may therefore limit the extent of the right and determine to whom the cause of action shall be given. *Stone* v. *Groton, etc. Co.*, 77 Hun (N. Y.) 99, 28 N. Y. Supp. 446. See 18 HARV. L. REV. 220. Some courts have held, however, that where there is an analogous statute in the state where suit is brought, allowing some other person to sue than the one designated by the *lex loci delicti*, the former may sue. *Stewart* v. *Baltimore & Ohio R. Co.*, 168 U. S. 445. These cases are limited on their facts to situations where the two statutes designate the same persons to take the money ultimately, but give the cause of action itself to different representatives. It is said that the court will look at the substance of the matter rather than the form, and will not be influenced by a difference in the formal parties plaintiff. See *Strait* v. *Yazoo & M. V. R. Co.*, 209 Fed. 157. The principal case adopts this distinction, and accordingly allows recovery in the first case, but reaches the contrary result in the second, where the cause of action vested in the parents for their own benefit and not in a representative capacity. While this classification reconciles the conflicting cases there seems little to be said for it on theory. For if "justice" can be supposed to require the entertainment of a suit brought by a person who has no cause of action under the statute, there would seem to be no logic in confining the operation of this over liberal rule to the one class of cases.

CONSTITUTIONAL LAW — PERSONAL RIGHTS — LIBERTY TO CONTRACT: STATUTE FORBIDDING EXACTION OF AN AGREEMENT NOT TO BELONG TO LABOR UNION AS CONDITION OF EMPLOYMENT. — A statute prohibited employers from requiring of laborers an agreement not to belong to a labor union, as a condition of either securing or continuing in a job. KANSAS SESSION LAWS OF 1903, C. 222; GEN. STAT. KANSAS, 1909, §§ 4674, 4675. *Held*, that the